

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE R. AYDELOTTE,
Plaintiff,

v.

TOWN OF SKYKOMISH, *et al.*,
Defendants.

Case No. C14-307RSL

ORDER DENYING MOTION
TO DISMISS


This matter comes before the Court on Defendants' "Motion and Memorandum in Support of Dismissal." Dkt. # 18. On May 14, 2014, the Court granted Defendants' unopposed motion for a more definite statement. Dkt. # 14. The Court instructed Plaintiff to file an amended complaint no later than May 23, 2014. *Id.* at 2. Plaintiff did not file an amended complaint within the time provided. Defendants now seek dismissal of the complaint pursuant to Fed. R. Civ. P. 12(e).

Fed. R. Civ. P. 12(e) provides that "[i]f the court orders a more definite statement and the order is not obeyed within 14 days after notice of the order or within the time the court sets, the court may strike the pleading or issue any other appropriate order." Defendants' motion to dismiss is based solely on Plaintiff's failure to file an amended complaint. Dkt. # 18 at 2-3. After Defendants filed their motion, however, Plaintiff submitted an amended complaint. Dkt. # 23. While it is true that Plaintiff's amended complaint was untimely, Plaintiff, who is proceeding pro se, has provided sufficient

1 justification for the delay. Dkt. # 22 at 1 (explaining that the delay was due to a medical
2 emergency). In light of the Court's interest in resolving disputes on their merits and
3 because Defendants do not contend that the amended complaint is so vague or
4 ambiguous that they cannot respond to it, the Court, in its discretion, DENIES
5 Defendants' motion to dismiss. Because an amended complaint supersedes the original
6 complaint, rendering it without legal effect, Lacey v. Maricopa Cnty., 693 F.3d 896, 927
7 (9th Cir. 2012), Plaintiff's amended complaint (Dkt. # 23) is the operative pleading in
8 the above-captioned matter.

9 For all of the foregoing reasons, Defendants' motion to dismiss (Dkt. # 18) is
10 DENIED.

11
12 DATED this 30 day of June, 2014.

13
14 

15 Robert S. Lasnik
16 United States District Judge
17
18
19
20
21
22
23
24
25